

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	18-CR-457(AMD)
	:	
	:	U.S. Courthouse
	:	Brooklyn, New York
-against-	:	
	:	TRANSCRIPT OF
	:	STATUS CONFERENCE
	:	
HUAWEI TECHNOLOGIES CO.,	:	June 19, 2019
LTD. ET AL,	:	11:30 a.m.
	:	
Defendants.	:	

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BEFORE:

HONORABLE ANN M. DONNELLY, U.S.D.J.

APPEARANCES:

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THE COURTROOM DEPUTY: All rise.

THE COURT: Hi. Everybody can sit down.

Are you all going to talk?

MR. SOLOMON: Simultaneously.

THE COURTROOM DEPUTY: This is criminal cause for a  
status conference, docket number 18-CR-457, USA versus Huawei  
Technologies, et al.

Counsel, state your appearance, government first.

MR. SOLOMON: Good morning, Your Honor, Alex Solomon  
for the government and, indicating everyone in a clockwise  
manner, Julia Nestor, Kaitlin Farrell, Christian Nauvel, Sarah  
Evans, Thea Kendler, David Kessler and I messed up the order  
slightly. We're all from the DOJ. Good morning, Your Honor.

1 THE COURT: Okay.

2 MR. COLE: Good morning, Your Honor, James Cole on  
3 behalf of Huawei and with me at the defense table is David  
4 Bitkower and Michael Levy.

5 THE COURT: Hi. So, we have just a couple of things  
6 to do today. I'm just going to start with the motion for the  
7 bill of particulars. I think there was a production recently,  
8 I just think we need to set a new deadline for that. Do you  
9 have a suggestion?

10 MR. COLE: Yes, Your Honor, we discussed that with  
11 the government and we think that that should trail the  
12 discovery because it really doesn't make sense to start a bill  
13 of particulars until we know what's in the discovery and have  
14 some sense of what we need to really ask for. So, we'd like  
15 to trail it indefinitely until there's a substantial  
16 compliance with discovery and then we can confer again.

17 THE COURT: Do you have any thoughts?

18 MR. SOLOMON: We agree with that. We discussed with  
19 defense counsel that the discovery is a process that has  
20 basically just started. Your Honor authorized the protective  
21 order on the 10th of June. Since that date we produced well  
22 more than 700,000 pages of discovery. We're going to continue  
23 at a good clip. Our thought is let's assess where we are at a  
24 status conference two or three months down the road.

25 THE COURT: So, do you want me to adjourn it without

1 a deadline or do you want me to give you a deadline for the  
2 next status conference?

3 MR. COLE: I think the preference would be adjourn  
4 it without a deadline, then we'll confer again once discovery  
5 is had. Obviously they've given us a volume of discovery,  
6 we're not sure how much more volume there is. That's  
7 difficult for them to define so...

8 THE COURT: All right. Well, there was a stipulated  
9 protective order that I signed on June 10th. All right. So,  
10 I guess the next thing to do is to give you a schedule for  
11 responding now that the government has filed the version of  
12 the motion that's -- I directed them to lift some of the  
13 redactions. So, I think the next thing to do is to give you a  
14 deadline to oppose it. I mean I suppose there's always the  
15 possibility that you'll agree that you should not be on the  
16 case but I'm going to assume you're not going to feel that way  
17 so.

18 MR. COLE: Well, Your Honor, we've discussed with  
19 the government a schedule for this. I would like an  
20 opportunity to address with Your Honor the reasons why I  
21 stated what I stated in my declaration. That's obviously not  
22 going to be able to be done in open court, so I wanted to get  
23 a sense from Your Honor as to how you would prefer that,  
24 whether it's in writing or part of an oral presentation with  
25 an opportunity to ask questions which I think would, in my

1 view, be probably more efficient and effective and we can  
2 figure out a time to do that.

3 The government and we have talked about a date for  
4 our response being July 19th, a date for their reply being two  
5 weeks after that and then scheduling a hearing which probably  
6 is going to be kind of a mixed hearing, some open, some  
7 closed, some closed with just me and without the other  
8 counsel.

9 MR. SOLOMON: That's correct, Your Honor, and I  
10 think we were contemplating some sort of hearing/oral argument  
11 partially classified, partially unclassified sometime in  
12 August. I think, based on the travel schedules, we were  
13 discussing perhaps late August. Obviously we're not aware of  
14 the Court's availability during that time.

15 THE COURT: I know this will shock you, I might take  
16 a vacation at some point but we can figure out a date. It may  
17 have to be after Labor Day for the argument. I'm around, I  
18 have a couple of trials scheduled and I am going to be away  
19 the last part of the month. So, does that --

20 MR. COLE: I think that sounds reasonable, Your  
21 Honor.

22 THE COURT: All right. Give me just a second.

23 (Pause while the Court confers with the law clerk.)

24 THE COURT: I'm trying to convince my clerk to stay  
25 past her time of leaving so she can -- we had in mind a

1 schedule that would accommodate her but I understand the  
2 parties' positions.

3 So, the opposition will be, what did you say,  
4 July 19?

5 MR. COLE: That's correct, Your Honor.

6 THE COURT: And was it two weeks from that?

7 MR. SOLOMON: That would be August 2nd, Your Honor.

8 THE COURT: Okay. And let me just confer with  
9 Ms. Greene about our schedule.

10 (Pause while the Court confers with the courtroom  
11 deputy.)

12 THE COURT: Wednesday the 4th, is that okay with you  
13 all?

14 MR. SOLOMON: Yes, Your Honor.

15 THE COURT: That will be for some kind of an oral  
16 argument.

17 MR. COLE: Whatever nature or shape it may take.

18 THE COURT: At 10:30, is that okay?

19 MR. SOLOMON: Yes, Your Honor.

20 THE COURT: September 4th at 10:30, that will be  
21 something, all right.

22 I don't know that we have a whole lot more to  
23 discuss.

24 MR. COLE: My list is I think finished.

25 MR. SOLOMON: I think I had three additional

1 matters, Your Honor, all of them are relatively small.

2 The first one was just noting for the record we have  
3 filed our CIPA 2 motion and, as we indicated in the motion,  
4 we're seeking a CIPA 2 status conference after the Court  
5 adjudicates our motion to disqualify.

6 THE COURT: Yes.

7 MR. SOLOMON: Secondly, although we do have a  
8 stipulated protective order, there are some outstanding issues  
9 that may require judicial attention. One of the issues  
10 potentially requiring judicial attention is the defense desire  
11 to share certain discovery materials with Cathy Meng who is in  
12 extradition proceedings in Canada. We're attempting to  
13 resolve that in good faith. If we're unable to, we'll address  
14 the Court.

15 THE COURT: All right.

16 MR. SOLOMON: Finally, we'd obviously ask for a  
17 status conference and seek to exclude time.

18 THE COURT: Well, I was going to exclude the time.  
19 Let me just make sure that there's nothing else that we have  
20 to ask.

21 (Pause while the Court confers with the law clerk.)

22 THE COURT: Maybe I've missed this, I think Skycom  
23 was supposed to be arraigned in May, have they been arraigned?

24 MR. SOLOMON: No, we have been unable to serve them.

25 THE COURT: Okay.

1 Do you want to make the next conference date the  
2 date of that oral argument?

3 MR. SOLOMON: I think, given travel schedules, that  
4 probably makes the most sense.

5 THE COURT: Okay. So, this case is going to be  
6 adjourned until that September 4th date. That time is  
7 excludable in the interests of justice. I think I designated  
8 this a complex case already.

9 MR. SOLOMON: That's correct, Your Honor.

10 THE COURT: Due to the complexities of the case and  
11 given the outstanding matters that have to be decided.

12 Is there anything else that anybody wants to put on  
13 the record?

14 MR. SOLOMON: No, thank you, Your Honor.

15 MR. COLE: Nothing here, Your Honor.

16 THE COURT: Okay. All right.

17 Thanks so much, everybody.

18 MR. LEVY: Thank you, Your Honor.

19 (Time noted: 11:45 a.m.)

20 (Continued on next page.)

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